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SUBJECT:

Statement of Iranian Foreign Ministry on Iran-Iraq Differences dated January 3, 1960.

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The attached enclosure is a translation of the Foreign Ministry's statement as published in the January 4, 1960 edition of Kayhan International, modified where necessary by the Embassy, following comparison with the Farsi text, received under cover of a note dated January 3, 1960.

FOR THE AMBASSADOR:

Charles C. Stelle  
Counselor of Embassy  
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Enc: Translation of Statement of Iranian  
Foreign Office on Iran-Iraq Differences -  
January 3, 1960.

AmEmbassy Ankara  
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Pg. 1, Encl. 1, Desp.No. 4114

From:AmEmb Tehran

Translation of Statement of Iranian Foreign Office  
on Iran-Iraq Differences - January 3, 1960

In view of the fact that the Irano-Iraq disputes have attracted public attention at home and abroad, becoming a subject of various comments in foreign countries and since Iraqi authorities have distorted the facts in their statements, with a view toward misleading public opinion, the Imperial Ministry of Foreign Affairs considers it necessary to reveal some facts pertaining to the nature of these disputes.

Before discussing the nature of the dispute, it is necessary to state that the principles of the foreign policy of the Imperial Government of Iran have always been founded on the basis of respect for the independence and territorial integrity of other countries; good neighbourly relations and the settlement of disputes through peaceful means. Following these principles, the Imperial Government concluded the 1937 Treaty in order to remove its border disputes with Iraq; thereby showing its good will and a spirit of peacefulness.

According to this treaty, the frontiers of the two countries on land and on the Shat al-Arab were demarked and the management of the Shat al-Arab was arranged on the basis of equal and common rights of the two countries. The Iranian Government, ever since concluding the treaty, has shown its utmost good will and has always informed the Iraqi Government of its own preparedness to carry out the provisions of the treaty.

First - Following the conclusion of the treaty, the Iranian Government in the autumn of 1938 (Azar 1317) proposed to the Iraqi Government that a border commission be set up. Both sides went as far as introducing their delegates, but, unfortunately, the joint commission did not succeed in its task due to the lack of cooperation on the part of the Iraqi side. Its work finally came to a standstill at the end of several months because the Iraqi delegates, instead of working on the demarcation of the border, spent all their energy on establishing their encroachments. This, naturally was not acceptable to the Iranian delegates.

After that the Iraqi Government never agreed to the resumption of the Commission's work in spite of the repeated requests of the Iranian Government. Even in 1941 when Iran was subjected to an invasion, the Iraqi Government, contrary to the spirit of amity and the treaties that existed between the two countries, instead of expressing sympathy with the Iranian nation, exploited the confused situation and occupied several border points and erected military guard points. Iraq has refused to evacuate these points in spite of Iran's repeated protests since the incident. The details of these encroachments, which are recorded in the files, are deferred for another occasion.

Second - Due to Iraq's non-cooperation, Iran's efforts met with failure in connection with the drawing up of a navigation agreement and joint management of the Shat al-Arab as provided in Article five of the treaty. Article five requires both sides to sign an executive agreement within one year for the joint management of the river on the basis of equal rights, with a view

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to the maintenance and improvement of navigation, dredging, pilotage, collection of charges and dues, health measures, smuggling prevention and all other matters pertaining to navigation in the Shat.

According to the protocol annexed to the treaty, if the agreement is not signed within one year in spite of the efforts of both sides, the two governments can, with mutual consent, extend this period. Iraq was to manage the river on behalf of Iran on the status quo basis during the first year after the conclusion of the treaty and during the extension period. In that case Iraq was required to inform the Iranian Government every six months of all its actions, the funds it had collected, its expenses, and, briefly, whatever it had done in connection with the river.

In 1938 (1317) the Iranian Government prepared a draft in accordance with the letter and spirit of the treaty concerning the management and navigation of the Shat al-Arab. This draft which was presented to the Iraqi Government had the following main provisions:

1. The Shat should be open equally to all the merchant, non-merchant and war ships of Iran and Iraq and all the merchant ships of all other countries with the equal right for both parties to make full use of the river.
2. A mixed Iran-Iraq commission composed of two Iranians and two Iraqis be formed in connection with the joint management of the river.
3. All matters pertaining to the collection of charges, payment of expenses and other navigation matters referred to in article five should be handed over to the mixed commission.
4. The agreement should work on the basis of unanimity of votes and arbitration in case of disputes.

But the Iraqi Government presented a counter-proposal along the following lines, which disregarded the provisions of the treaty:

1. Each party should maintain its sovereignty over parts of the Shat al-Arab which are in its territory but should undertake to exercise its rights according to regulations which should be agreed upon by both parties.
2. The powers of the "Shat" commission proposed by Iran should not be executive but consultative.

Obviously, the Iraqi Government's proposals were completely incompatible with the letter and spirit of the 1937 (1316) treaty as well as with Iran's historic rights and its equal rights as specified in articles four and five of the treaty and its annexed protocol. Moreover, in view of the fact that 75 per cent of the Shat al-Arab shipping was to Iranian ports and most of the Shat al-Arab water was from Iranian sources, the Iranian Government naturally could not accept only a consultative function in the management of the Shat al-Arab, which would have been contrary to the principles of the treaty and to its own vital interests.

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This fact, also, should be mentioned that the (recognition of ) passage rights for Iran's warships and merchant navy in the Shat al-Arab as mentioned in Note B of Article 4 as well as the equality of the rights of both the Iranian and Iraqi Governments in granting passage rights to the merchant and naval ships of other countries in the Shat al-Arab (on the basis of the protocol annexed to the treaty) confirm that the Iraqi Government has no absolute and sole sovereignty over the Shat al-Arab.

About the same time when Iran submitted its proposals regarding the "Shat" management, the Iraqi delegations who visited Iran with the then Iraqi Crown Prince were handed a proposal by Iran that a demarcation commission should be appointed in order to settle the dispute regarding the land borders of the two countries and that the commission should put up demarcation signs in areas which were not under dispute. It was also proposed that should the commission fail to agree on certain points, it should refer to Tehran and Baghdad and the matter should be put to arbitration if not settled within three months.

The Iraqi representatives promised to declare their views within a month, but did not keep their promise. Finally as a result of Iran's insistence and efforts, an agreement was reached between Iran and Iraq in the autumn of 1957 (1336) which was briefly as follows:

1. In connection with the implementation of article five of the treaty it was agreed that both sides should designate a joint body to sit in Baghdad to draw an executive agreement concerning the joint management of the Shat al-Arab.
2. In connection with the erection of demarcation signs along the border, an agreement was reached in principle on the appointment of a Swedish arbitrator so that the disputes could be settled in Tehran with the cooperation of a mixed Iranian-Iraqi commission.

Preparations towards the above were reaching completion when the present regime came to power in July 1958 and officially declared that it would respect and honour Iraq's international commitments. In connection with its relations with the Iranian Government, it particularly declared that it considers valid the former regime's agreement concerning the manner of settling disputes relating to the land border and Shat al-Arab.

In practice, however, unfortunately not only Iran's repeated notes to Iraq requesting the appointment and introduction of its representatives were left unanswered, but the Iraqi Government exacerbated the disputes by adopting an unfriendly attitude and introduced new difficulties in relations between the two countries. Of these only a few are enumerated here:

1. The Iraqi Government created restrictions for Iranian nationals with a view to forcing them to renounce their Iranian citizenship or to leaving Iraq. These included bans on the acquisition of land property and bringing to a standstill transactions in real property. As a result of these

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severe actions, about 9,000 Iranian families have so far been forced to give up their homes, families, jobs and professions and return to Iran.

2. Iraqi officials - both military and police - have attacked Iranian border villages, occasionally killing Iranian citizens.

3. Iraqi military aircraft repeatedly flew over Iranian territory and Iraqi naval vessels entered Iranian waters.

4. Encroachment and incursion on the exclusive right of Iranian subjects to make use of the Baghche and Qatar pastures in consequence of an illegal action in building certain works.

On the Shat al-Arab the Iraqi Government has committed the following violations against the established rights of the Iranian Government:

a. It has unlawfully spent revenues obtained from the Shat al-Arab contrary to the provisions of the protocol annexed to the 1937 treaty on the building of an airport, hotel, etc. which are in no way connected to navigation on the Shat al-Arab. Also, contrary to the said protocol, it has failed to submit semi-annual accounts to the Iranian Government.

b. It has refused to give pilots to merchants ships which, according to the general practice, go to Iranian ports under Iranian flag.

c. Contrary to the 1937 treaty, it has given priority for the pilotage of vessels to the ships belonging to certain foreign governments.

d. It has prevented the entry of ships belonging to the Iran-Pan-American Co. at Khosrowabad and has threatened and summoned for trial at Basra the captains of these vessels sailing under the Iranian flag.

e. It has protested against the visits of foreign war ships allowed by Iran, under the 1937 treaty protocol, to enter Iranian ports in the Shat al-Arab.

f. It has repeatedly and without justification, subjected Iranian ships to search and inspection.

These are some facts about the Iran-Iraq disputes. The Iraqi Government, by proceeding with these unfriendly and continued actions, has aggravated and intensified the differences between the two neighbouring countries. Recently, and unprefaced in any way and without any cause, General Abdul Karim Qassem, the Prime Minister of Iraq, announced in a speech that the 1937 treaty had been imposed upon Iraq under pressure; that the Iraqi Government had awarded Iran five kilometers of the waters facing Abadan, i.e. from the Abadan bank to the thalweg of the Shat al-Arab; and that it will regain this territory in case the border dispute is not settled.

It is clear to all, however, that the principles of international law, justice and international equity required that the thalweg should have been

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Pr. 5, Encl. 1, Desp. 414, Tehran

considered in the 1937 treaty as a basis of border demarcation not only opposite Abadan but along the entire length of the Shat al-Arab.

Responsible officials in Iraq by distorting facts try in their statements to place their responsibility for the creation of the present tense situation in the relations of the two countries upon the shoulders of Iran, whereas the Iraqi Government has been the source of these disputes and tension, and must therefore accept the consequences arising from them.

Under various pretexts and unacceptable excuses, the Iraqi Government has refused to carry out the provisions of the treaty and its own obligations under it. It has abrogated the treaty in practice and rendered it ineffective. It has not stopped at that; it has provoked a nation by its threatening and imperialistic pronouncements, something it itself has been dealing with for years, and has strained relations between the two countries. At the same time, however, it expects the Iranian Government to refrain from taking the smallest precautionary measure in preventing possible future aggression.

It is undeniable that the Iranian Government has not spared any effort, during the years past, in resorting to various peaceful means in order to settle these disputes. Iran's entire efforts have been based upon the principles of the United Nations Charter, which is the pillar of Iran's foreign policy. These efforts will not deviate from respect for the principles of the United Nations.

The Iranian Government believes that if the Iraqi Government, while taking into consideration the historic, cultural and religious bonds that tie the two nations together, adopts the same attitude as Iran and demonstrates its mutual good will in practice, all disputes will be settled through peaceful means. Otherwise, the Iranian Government naturally cannot ignore Iraq's repeated and continual aggressions and violations against its legitimate rights and considers it its duty to resort to any means that it may deem appropriate in order to regain Iran's unquestionable rights and to redress historical injustices, with due regard to the present situation and needs and on the strength of the principles of justice and international law.

It is necessary to repeat, as stated in the Majlis, that the Iranian Government does not recognize any basis or criterion other than the thalweg for delimitation of the border line in the Shat al-Arab as being consistent with the principles of public international law and justice and fairness between nations.

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